



Federal Communications Commission
Washington, D.C. 20554

JUN 2 1997

The Honorable John E. Baldacci
U. S. House of Representatives
1740 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Baldacci:

Thank you for your letter of April 3, 1997, on behalf of your constituent, Robert R. Kester, regarding the Commission's policies with regard to licensing of 931 MHz paging systems. You express concern that current paging applications will be dismissed and that paging frequencies will be awarded in a competitive bidding process.

On February 20, 1997, the Commission released a Second Report and Order and Further Notice of Proposed Rule Making in WT Docket 96-18 and PP Docket 93-253, which adopted rules governing geographic area licensing for Private Carrier and Common Carrier paging licenses and established competitive bidding procedures for those systems. For your convenience and information, enclosed is a copy of the Press Release concerning the Second Report and Order and Further Notice of Proposed Rule Making, which includes a summary of the principal decisions made. Specifically, all mutually exclusive applications for non-nationwide Common Carrier Paging licenses and exclusive non-nationwide Private Carrier Paging channels will be subject to competitive bidding procedures. Additionally, all pending mutually exclusive applications filed with the Commission on or before February 20, 1997, will be dismissed.

The Commission has imposed freezes in a number of other proceedings to facilitate the transition to geographic licensing and auctions, including Multipoint Distribution Service, 800 and 900 MHz Specialized Mobile Radio (SMR) Service, Location and Monitoring Service, 220 MHz Service and 39 GHz Service. Our decision in these proceedings to suspend acceptance of applications while the related rulemaking was pending advances two critical goals -- preservation of our ability to assign licenses through auctions, and deterrence of license fraud and speculation. In particular, we are concerned that the potential benefits of geographic area licensing, with competitive bidding used to select from among competing applicants, would be undermined by continuing to invite site-specific applications for "free" spectrum on a first-come, first-served basis.

Assigning frequencies by auction, in turn, helps deter fraud and speculation and ensures that this valuable public resource is assigned rapidly and efficiently to the parties who value it the most, rather than given away to the first party who files its application with the Commission. The Commission has stated its belief in other contexts (such as Specialized Mobile Radio) that auctions will minimize administrative or judicial delays in licensing,

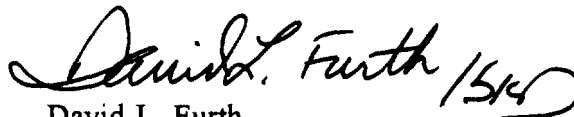
particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures.

The Commission's newly adopted rules to auction paging frequencies is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use.

Moreover, the Commission has taken a number of steps to ensure that paging providers that are small businesses are not adversely affected by the transition to geographic area licensing and the use of competitive bidding procedures to award paging licenses. Additionally, the Part 90 shared paging channels will not be auctioned; instead they will be licensed on a site-by-site basis. We are establishing licensing areas of a size that will provide realistic bidding opportunities for small and medium-sized operators. We have also adopted special provisions in our competitive bidding rules for small businesses to facilitate their participation in the auction process, including bidding credits and installment payment provisions. In the Further Notice of Proposed Rule Making, we have proposed to allow paging licensees to partition their licensing areas in order to promote quicker build-out of small markets and rural areas.

Thank you for your inquiry.

Sincerely,

A handwritten signature in dark ink, appearing to read "David L. Furth" followed by a stylized flourish or date "1/5/90".

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Copy to: Robert R. Kester, M.D.

Enclosure

JOHN ELIAS BALDACCI
2D DISTRICT, MAINE

AGRICULTURE COMMITTEE
COMMITTEE ON SMALL BUSINESS

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April 3, 1997

Mr. Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt:

I was contacted recently by my constituent, Dr. Robert R. Kester, of Lewiston, Maine, regarding his pending 931 MHz pager license application with the FCC.

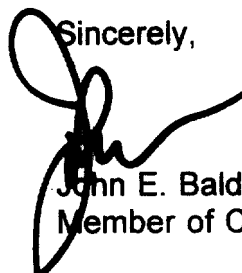
I understand that the processing of these applications has been frozen while the Commission looks into the issue of the unauthorized reselling 931 MHz pager licenses that have been obtained through auctions. I am concerned that in the meantime, the applications of individuals such as Dr. Kester are unfairly being held hostage by the FCC. I am interested to learn more about this situation, and want to voice my concern that current applicants not be summarily dismissed should new auction guidelines be issued.

Please respond to my query regarding this issue, and please supply a copy of this response to Dr. Kester. His address is: Robert R. Kester, MD, Adult and Pediatric Urology, 10 High Street, Suite 301, Lewiston, Maine, 04240.

Thank you for your timely response to this issue. I look forward to hearing from you.

With best wishes,

Sincerely,


John E. Baldacci
Member of Congress

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